

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

BILL L. HEMENWAY,

Petitioner,

V.

ALICE PAYNE,

Respondent.

Case No. C07-5634RBLFDB

**ORDER GRANTING
PETITIONER'S MOTION TO
FILE AMENDED PETITION**

This matter is before the court on petitioner's motion for leave (Doc. 25) to file an Amended Petition, which was submitted along with the motion (Doc. 26). After reviewing petitioner's motion and the remaining record, the court orders as follows.

(l) Petitioner's motion (Doc. 25) is GRANTED. The matter was stayed for several months pending the outcome of state court proceedings, and it was appropriate to file an Amended Petition following the conclusion of those proceedings. Accordingly, the stay in this matter shall be lifted.

(2) The court notes Respondent has also filed an Answer, subsequent to the filing of Petitioner's motion and Amended Petition. It appears the Answer was filed in direct response to the Amended Petition, however, if this assumption is erroneous Respondent shall contact the clerk of the court and advise otherwise.

(3) A response (or traverse) to respondent's Answer is not required. As the Advisory Committee Notes to Rule 5 of the Rules Governing § 2254 Cases states:

[T]he traverse tends to be a mere pro forma refutation of the return [Answer], serving little

1 if any expository function. In the interests of a more streamlined and manageable habeas
2 corpus procedure, it is not required except in those instances where it will serve a truly
useful purpose.

3 If petitioner intends to file a traverse in this matter, he shall do so **no later than December 15,**
4 **2008.**

5 **(4)The clerk should set the matter for consideration on the court's December 19, 2008**
6 **calendar,** and the Clerk shall direct copies of this Order to petitioner and to counsel for respondent.

7 DATED this 28th day of November, 2008.

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9 /s/ J. Kelley Arnold
10 J. Kelley Arnold
United States Magistrate Judge

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